IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 20924 of 2004

Between:

Palli Sitaramulu Goud, s/o Satte Goud,
r/o Aliabad Vg., Shamirpet (M), Ranga Reddy District.

..... PETITIONER

AND

1 The State of A.P., rep., by its Prl.Secretary to Government, Panchayat raj & Rural Development Department, Secretariat, Hyderabad.
2 The Election Officer & Deputy Chief Executive Officer, Zilla Parishad, Ranga Reddy District.
3 The District Collector, Ranga Reddy District, at Hyderabad.
4 Smt.G.Alivelu, w/o Satyanarayana,
r/o Lalgudi Malakpet Vg., Shamirpet (M), Ranga Reddy District.
5 D.Veera Swamy, s/o D.Sattaiah,
r/o Jaganguda Vg., Shamirpet (M), Ranga Reddy District.
6 V.Krishna Murthy, s/o Shankaraiah,
r/o Uddemarry Vg., Shamirpet (M), Ranga Reddy District.
7 T.Babu, s/o T.Rama Swamy,
r/o Bommrasipet Vg., Shamirpet (M), Ranga Reddy District.
(Res.4 to 7 are MPTC Members of Mandal Parishad, Shamirpet, Ranga Reddy District.)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more in the nature of writ of mandamus declaring the action of the respondent No.1 in entertaining the revision petition and suspending the orders dt.1-10-2004 passed by the second respondent vide Memo No.10512/Mdl.II(A)/2004-I dt.16-10-2004 as illegal, arbitrary, without jurisdiction and opposed to Art.14 of the Constitution of India.

Counsel for the Petitioner:MR.V.RAJAGOPAL REDDY

Counsel for the Respondents 1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court, at the stage of admission, made the following :

ORDER

Petitioner is the President of Mandal Praja Parishad, Shamirpet Mandal, Ranga Reddy District and the respondents 4 to 7 were elected as M.P.T.C. Members from their respective villages. On a complaint made by the petitioner to the second respondent against the respondents 4 to 7 alleging that they have violated the party whip in the election held on 21.9.2004, the second respondent issued a show-cause notice on 23.9.2004 seeking explanation from the respondents 4 to 7. Having not satisfied with the explanation offered by the respondents 4 to 7, the second respondent through proceedings dated 1.10.2004 suspended the respondents 4 to 7 from their Membership as M.P.T.C. of Shamirpet Mandal. Aggrieved by the same, the respondents 4 to 7 filed a revision before the Government and the Government entertained the revision and by impugned order dated 16.10.2004 stayed the proceedings of the second respondent dated 1.10.2004. Challenging the said order the present writ petition is filed contending that since the matter pertains to the election, the proper remedy for the respondents 4 to 7 is only to approach the Election Tribunal by filing an election petition under Section 233 of the A.P. Panchayat Raj Act (for short 'the Act') and further, the Government could not have entertained the revision by staying the proceedings of the second respondent.

Learned counsel for the petitioner by placing reliance upon Judgments of this Court in **GANGARAM v STATE ELECTION COMMISSION** and **AKULA GANGA RAJU V PRESIDING OFFICER, YELESWARAM MANDAL PRAJA PARISHAD** contends that no revision is maintainable before the Government except by way of election petition before the Election Tribunal as contemplated under Section 233 of the Act.

The Judgment of a Division Bench of this Court in **Gangaram's** case (1 supra) is not applicable to the facts of the present case since in this case respondents 4 to 7 were disqualified for violating the whip in the election held on 21.9.2004. Similarly, the reliance placed on **Akula Ganga Raju's** case (2 supra) has been reversed in appeal by a Division Bench of this Court in **PANDRANKI PARVATHI v AKULA**

GANGA RAJU and hence, the same also will not of any help to the case of the petitioner.

Be that as it may, in view of the fact that the Government have already entertained the revision against the disqualification of the respondents 4 to 7 and since the impugned proceedings staying the suspension proceedings of the second respondent are only pending adjudication of the revision, if the petitioner is aggrieved by the same, he can approach the Government by filing an appropriate application for vacating the impugned proceedings in the revision. If any such application is filed, the Government has to consider and dispose of the same after hearing all the parties. Hence, I see no ground to entertain the writ petition.

With the above observations, the writ petition is dismissed. No costs.

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A. GOPAL REDDY. J.

16th November, 2004

tsr.

To

1 The State of A.P., rep., by its Prl.Secretary to Government, Panchayat raj & Rural Development Department, Secretariat, Hyderabad.
2 The Election Officer & Deputy Chief Executive Officer, Zilla Parishad, Ranga Reddy District.
3 The District Collector, Ranga Reddy District, at Hyderabad

4 . Two C.C.s to Government Pleader for panchayat raj & rural dev., High Court Buildings, Hyderabad.(OUT)

5. Two C.D. copies.